

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-132

February 3, 1998

DAVID G. RATHBONE ET AL V. MAINE
TELEPHONE COMPANY

ORDER CLOSING DOCKET

Complaint Alleging that 130 Residents
of Gray Served by Maine Telephone Company
are Unable to Call the Same Exchanges as
their Neighbors in Gray, Served by Pine
Tree Telephone Company

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY

In this Order, we dismiss this complaint.

II. BACKGROUND

On March 6, 1997, the Commission received a complaint signed by David G. Rathbone, and 66 other persons against Maine Telephone Company. The complaint, filed pursuant to 35-A M.R.S.A. § 1302, is a request that the Commission investigate why 130 West Gray residents are unable to call the same exchanges as some other residents of West Gray who are served by the Pine Tree Telephone Company.

Currently, the complainants are served out of Maine Telephone Company's Raymond (655) exchange even though they reside in the town of Gray. The area that the complainants are located in has been lawfully served by Maine Telephone Company (or its predecessors) since 1927.¹ Pine Tree has furnished telephone service in West Gray since before 1927, but not within the disputed area.

Raymond 655 exchange subscribers presently can call about 10,100 subscribers in the communities of Casco, Gray, Naples, Poland, and West Gray as part of their Basic Service Calling Area (BSCA). West Gray 428 exchange subscribers can call about 103,200 subscribers in Cumberland, Gray, New Gloucester, Portland, Raymond, and Windham as part of their BSCA.

¹ Poland Telephone Company v. Pine Tree Tel. & Tel., Me., 218A.2d487

Chapter 204 of the Commission's rules describes the manner in which calling areas are to be expanded uniformly throughout the state, using a community of interest approach based on the calling patterns of the entire exchange. Where residence calling patterns do not meet the threshold for expansion established by the BSCA rule, Chapter 204 provides a Circle Calling Plan for toll calls to all exchanges within 30 miles of the home exchange. Thus, by electing to subscribe to an optional Circle Calling Plan, Raymond 655 exchange subscribers can call an additional 51 exchanges with a population of about 240,600;² the cost is \$6.00 for the first hour of toll service and \$0.10 per minute thereafter.³

An additional optional calling plan provided by Maine Telephone Company for the Raymond exchange is the Extended Community Calling Service, which is an optional arrangement whereby customers may call all adjacent exchanges on a customer-dialed station-to-station basis where extended area service is not provided; the monthly charge is \$1.20 and a per-minute charge of \$0.04 per minute applies for each additional minute over 30 minutes per month.⁴

Pursuant to 35-A M.R.S.A. § 1302, the Commission notified the Maine Telephone Company (Maine Telephone) of the complaint on March 10, 1997 and ordered the Company to file its response to the complaint within 10 days. On March 21, 1997, Maine Telephone filed its Response to the 10-person complaint.

² Communities include Bar Mills, Biddeford, Bowdoinham, Bridgton, Brunswick, Buckfield, Casco, Cornish, Cumberland, Denmark, Falmouth, Freeport, Fryeburg, Goodwins Mills, Gorham, Gray, Greene, Harpswell, Harrison, Hebron, Lewiston, Limerick, Limington, Lisbon Falls, Lovell, Mechanic Falls, North Deering, Naples, New Gloucester, North Norway, North Fryeburg, Norway, Old Orchard Beach, Oxford, Peaks Island, Poland, Portland, Pownal, Sabattus, Scarborough, Sebago, South Portland, Standish, Steep Falls, Turner, Waterboro, West Gray, Westbrook, West Buxton, Windham, and Yarmouth.

³ In addition, NYNEX's Pine Tree calling plan may be beneficial for some customers. Pine Tree service is designed to be a state-wide, "off-peak" plan and therefore includes time-of-day pricing.

⁴ Exchanges that are adjacent to Raymond but that are not in Raymond's BSCA include Standish, Steep Falls, and Windham.

III. MAINE TELEPHONE'S RESPONSE

In its Response the Maine Telephone Company made three comments. First, it states that the proper response to this situation is to make reasonable optional calling plans available to customers pursuant to the BSCA Rule. As noted above, Maine Telephone currently provides customers with the Circle Calling Plan, as well as other optional calling plans.⁵

Second, Maine Telephone notes that it lawfully serves the service area that the Petitioners are located in, pursuant to Maine statutes and decisions of the Commission and that there is nothing inherently unjust, unreasonable or discriminatory when the rates of a telephone company that serves one part of a town are different from the rates of a different telephone company that serves a different part of that town.

Third, the Company notes that if the Commission does not decide this case under the BSCA Rule, a precedent will be established of dealing with these "endless" issues on a case-by-case basis with small individual pockets of customers seeking rate and service area rearrangements.

Based on these comments, the Company does not support the request for waiver of the requirements of Chapter 204.

IV. DECISION

There are about 250 municipalities in Maine that are served by two or more exchanges or that do not have identical basic service calling areas. The present record does not support amending the rule.

The calling patterns of the Raymond 655 exchange do not meet the threshold established by the Commission's rule. In CAD Technical Bulletin #95-1, the Commission's Consumer Assistance

⁵ In our Order adopting the BSCA Rule, we stated that we believe that "a viable optional calling plan balances the needs of individual customers who may have different communities of interests than their neighbors, and that some "pocket" problems are best resolved by optional calling plans." Order in Docket No. 93-170 at 16.

Director recommended that although customers that are dissatisfied with the outcome of Chapter 204 have a right to file formal 10-person complaints, the more appropriate request for relief would be to seek a waiver under Chapter 204. This 10-person complaint falls well short of the requirement in the rule for 1,000 signatures or 30 percent of the exchange's subscribers in support of a waiver request (about 1,050 subscribers in this case).

The petitioners may call, and be called from, the West Gray and Gray calling area exchanges as part of their basic service calling area.⁶ Further, if a customer signs up for a Circle Calling Plan program, a reduced rate of \$0.10 per minute is available to call an additional 240,600 customers. We encourage the Petitioners to investigate optional calling rate plans to determine whether these services would be economically beneficial to the subscriber.

We find that this petition does not meet the waiver requirements in Chapter 204, which requires the signatures of 30 percent or 1,000 customers (whichever is less) of each exchange requesting the change. Although Chapter 204 grants the petitioners only partial relief, we are reluctant to depart from the requirements of this rule. Chapter 204 is designed to expand calling areas where there is a claimed needed and recorded calling volumes confirm that need. Because these tests have not been met, we will dismiss this complaint and require that Maine Telephone inform these customers of its optional calling plans.

While we are not able to grant the petitioners request, it is worth noting that we are working diligently to lower instate long-distance rates pursuant to 35-A M.R.S.A. § 7101-B. Lower instate long distance rates should help to ameliorate customer concerns about limited calling areas.

Therefore, we

O R D E R

⁶ In addition, calls made from pay telephones to and from the Raymond 655 exchange will be priced at \$0.30 for the first two minute period (thus, payphone calls from schools that are outside the Raymond 655 exchange to home are now priced at a more economical rate).

That this complaint be dismissed as without merit.

Dated at Augusta, Maine this 3rd day of February, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt